

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	: 13 Cr. 345 (LGS)
	:
– <i>against</i> –	:
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	:
ANTIONE CHAMBERS,	:
	:
Defendant.	:
	:
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Joshua L. Dratel, Esq., pursuant to 28 U.S.C. §1746, hereby affirms under penalty of perjury:

1. I am an attorney, and I represent defendant Antione Chambers in the above-captioned case by CJA appointment. I make this Declaration in support of Mr. Chambers’s motion *in limine* to permit expert testimony regarding the reliability of eyewitness testimony, and for reconsideration of the Court’s prior denial of Mr. Chambers’s pre-trial motion to suppress historical cell site evidence, based on two intervening cases, one by the Supreme Court, *Riley v. California*, 134 S. Ct. 2473 (2014), and the other by the Eleventh Circuit, *United States v. Davis*, 754 F.3d 1205 (11th Cir. 2014), *reh’g granted en banc*, \_\_\_\_ Fed.Appx. \_\_\_\_, 2014 WL 4358411 (11th Cir. Sept. 4, 2014).

2. The bases for these motions are set forth in detail in the accompanying Memorandum of Law. In essence, Mr. Chambers should be permitted to present an expert witness to testify regarding factors which affect the reliability of eyewitness testimony, in light of the well established and long standing research on the impact of various factors on the reliability

of eyewitness identification, the central role the identifications play in the evidence against Mr. Chambers, and most importantly, given the suggestive circumstances surrounding the three identification procedures employed to obtain the pre-trial identifications, and the Court should reconsider its prior denial of Mr. Chambers's pre-trial motion to suppress historical cell site evidence, related to the telephone number 717-643-6130, which was obtained without a showing of probable cause, pursuant to the Stored Communications Act, and therefore in violation of the Fourth Amendment, in light of two decisions, *Riley v. California*, 134 S. Ct. 2473 (2014), and *United States v. Davis*, 754 F.3d 1205 (11th Cir. 2014), *reh'g granted en banc*, \_\_\_\_ Fed.Appx. \_\_\_\_, 2014 WL 4358411 (11th Cir. Sept. 4, 2014), decided since that denial was issued.

WHEREFORE, it is respectfully requested that the Court grant Mr. Chambers's Motions in their entirety and permit him to present expert testimony addressed to the reliability of eyewitness testimony, reconsider the Court's prior ruling denying Mr. Chambers's motion to suppress historical cell site evidence, and suppress the historical cell site evidence related to telephone number 717-643-6130.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. 28 U.S.C. §1746. Executed September 9, 2014.

/S/ Joshua L. Dratel  
JOSHUA L. DRATEL